

JUDGMENT/ORDER



COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Corporations List
Registry	Supreme Court Sydney
Case number	2011/00411117

TITLE OF PROCEEDINGS

First Plaintiff	Christopher Robert Campbell, Vaughan Neil Strawbridge and David John Frank Lombe in their capacity as liquidators of MF Global Australia Limited (in liquidation), mitchell taylor
Second Plaintiff	MF Global Australia Limited (In Liquidation)
First Defendant	RMF Management Services Pty Limited
Second Defendant	Graincorp Operations Limited
Number of defendants	8
Corporation subject of the proceeding	Christopher Robert Campbell, Vaughan Neil Strawbridge and David John Frank Lombe in their capacity as liquidators of MF Global Australia Limited (in liquidation), MF Global Australia Limited (In Liquidation) Refer to Party Details at rear for full list of parties

DATE OF JUDGMENT/ORDER

Date made or given	10 December 2012
Date entered	12 December 2012

TERMS OF JUDGMENT/ORDER

VERDICT, ORDER OR DIRECTION:

Black J makes orders in Chambers in accordance with the Short Minutes of Order initialled by him and placed in the file.

The Court:

1. Orders that the Plaintiffs' costs and expenses of the proceeding be paid on an indemnity basis out of, or recouped from, the CFD Pool, the Futures Pool, the Margin FX Pool and the Online FX Pool on a pro-rata basis having regard to the Gross Liquidation Values as at 31 October 2011 of the CFD Accounts, the Futures Accounts, the Margin FX Accounts and the Online FX Accounts respectively.
2. Directs that the Liquidators would be justified in paying (or recouping) their remuneration, costs and expenses in respect of the Administration or Liquidation of MFGA relating to obtaining, or attempting to obtain, Recoveries from the Client Pool(s) into which the Recovery has been paid or (if obtained) would be paid.
3. Directs that to the extent that the Liquidators' remuneration, costs and expenses in respect of the Administration or Liquidation of MFGA relates to obtaining, or attempting to obtain, Recoveries that have been paid or (if obtained) would be paid, into more than one Client Pool and/or the general funds of MFGA, the Liquidators would be justified in paying (or recouping) such remuneration, costs and expenses from the relevant Client Pool(s) and/or the general funds of MFGA in the same proportion as the proportion in which such Recoveries have been paid, or (if obtained) would be paid, into the Client Pool(s) and/or general funds.
4. Directs that to the extent that the Liquidators' remuneration, costs and expenses in respect of the Administration or Liquidation of MFGA relates, in part, to obtaining or attempting to obtain Recoveries, the Liquidators would be justified in:
 - (a) making a fair and reasonable estimate of the portion of the remuneration, costs and expenses that relate to obtaining or attempting to retain Recoveries and paying (or recouping) such amount in accordance with paragraphs 2 and 3 above; or

(b) (if the Liquidators are not able to make a fair and reasonable estimate of the kind referred to in order 4(a) above) paying (or recouping) their the remuneration, costs and expenses equally from:
(i) the relevant Client Pool(s) into which Recoveries have been paid or (if obtained) would be paid (and otherwise in accordance with paragraphs [2] and [3] above); and
(ii) the general funds of MFGA.

5. Orders that the legal expenses reasonably incurred by the Fifth Defendant in acting as appointed in accordance with order 1(a) made on 2 April 2012 in the proceeding:

(a) be paid out of, or recouped from, the Client Segregated Accounts and Recoveries (to the extent they have been received) on a pro-rata basis having regard to the balance of the Client Segregated Accounts and the quantum of the Recoveries (to the extent they have been received) on the date of the payment or the date of recoupment (as appropriate);

(b) on an indemnity basis as agreed or assessed.

6. Orders that the legal expenses reasonably incurred by the Eighth Defendant in the proceeding:

(a) be paid out of, or recouped from, the Client Segregated Accounts and Recoveries (to the extent they have been received) on a pro-rata basis having regard to the balance of the Client Segregated Accounts and the quantum of the Recoveries (to the extent they have been received) on the date of the payment or the date of recoupment (as appropriate);

(b) on an indemnity basis as agreed or assessed.

7. Orders that, when calculating the amounts to be paid or recouped from the Client Segregated Accounts and Recoveries for the purposes of orders 5 and 6 above and the Representative Cost Orders, the Liquidators are to:

(a) determine the balances of the Client Segregated Accounts and the quantum of Recoveries as if:

(i) no distributions had been paid from the Client Segregated Accounts or Recoveries; and

(ii) no interest had accrued on the Client Segregated Accounts or Recoveries; and

(b) include the balances of the Standard Chartered Bank CSAs in the calculation as if the exclusion of those accounts in the Representative Cost Orders did not apply.

8. Orders the Liquidators to make appropriate adjusting payments between the Client Segregated Accounts and Recoveries (including the Standard Chartered Bank CSAs) to give effect to the Representative Cost Orders as if order 7 above had applied at the time of any payments made pursuant to those orders.

9. The Liquidators have liberty to apply for further orders or directions in relation to the payment of their remuneration, costs and expenses if so advised.

Definitions

Administration means the administration of MFGA.

CFD Account means a CFD Account with MFGA established under a CFD Client Agreement or similar agreement with MFGA.

CFD Agreement means an agreement between MFGA and a person relating to the CFD Product Line.

CFD Client means a client of MFGA with a CFD Account.

CFD Pool has the meaning given in paragraph 19 of the orders made on 19 September 2012 in this proceeding.

Client Accounts mean:

(a) CFD Accounts;

(b) Futures Accounts;

(c) Margin FX Accounts;

(d) Online FX Accounts,

as appropriate.

Client Pools mean:

(a) the CFD Pool;

(b) the Futures Pool;

(c) the Margin FX Pool;

(d) the Online FX Pool,

as relevant.

Client Segregated Accounts means the bank accounts maintained by MFGA pursuant to Part 7.8 of the Act, being each of the 51 bank accounts of MFGA identified in Annexure "A" to the orders made on 19 September 2012 in this proceeding.

Futures Account means an account with MFGA established in connection with a Futures Agreement



or similar agreement with MFGA.

Futures Agreement means an agreement between MFGA and a person relating to the Futures Product Line, including dealings in or clearing of futures and options contracts.

Futures Client means a client of MFGA with a Futures Account.

Futures Pool has the meaning given in paragraph 19 of the orders made on 19 September 2012 in this proceeding.

Futures Recoveries means the payments received, or to be received, by the Liquidators pursuant to arrangements with clearing houses and other MF Global group companies in respect of futures and options contracts executed or cleared on behalf of Futures Clients.

Gross Liquidation Value means the balance of each Client Account as if the MFGA Client were to close out all open positions at the current market price (less any proper transaction charges or adjustments), calculated by MFGA in Australian dollars on an aggregate basis across all of the MFGA Client's open positions in each Client Account.

Liquidation means the liquidation of MFGA.

Liquidators means the liquidators of MFGA.

Margin FX Account means a Margin FX Account with MFGA established under a Margin FX Agreement or similar agreement with MFGA.

Margin FX Agreement means an agreement between MFGA and a person relating to the Margin FX Product Line.

Margin FX Client means a client of MFGA with a Margin FX Account.

Margin FX Pool has the meaning given in paragraph 19 of the orders made on 19 September 2012 in this proceeding.

MFGA means MF Global Australia Limited (in liquidation).

MFGA Clients means all CFD Clients, Futures Clients, Margin FX Clients and Online FX Clients.

Online FX Account means an Online FX Account with MFGA established under an Online FX Client Agreement or similar agreement with MFGA.

Online FX Agreement means an agreement between MFGA and a person relating to the Online FX Product Line.

Online FX Client means a client of MFGA with an Online FX Account.

Online FX Pool has the meaning given in paragraph 19 of the orders made on 19 September 2012 in this proceeding.

OTC Recoveries means the payments received, or (subject to any available set off) to be received, by the Liquidators pursuant to agreements between MFGA and its hedge counterparties for the purpose of hedging MFGA's exposure to its CFD Clients, Margin FX Clients and Online FX Clients.

Product Lines means the following financial products into which the Second Plaintiff organised its business: CFDs, Futures, Margin FX and Online FX.

Recoveries means the Futures Recoveries and the OTC Recoveries.

Representative Costs Orders means orders 3, 4 and 5 made on 19 March 2012, orders 2, 3 and 4 made on 2 April 2012, orders 2, 3 and 4 made on 23 April 2012, order 3 made on 5 June 2012, orders 5 and 6 made on 20 June 2012 and order 3 made on 26 June 2012.

Standard Chartered Bank CSAs means the 11 Client Segregated Accounts identified in Part A(ii) of Annexure A to the orders made on 19 September 2012 in this proceeding.

VERDICT, ORDER OR DIRECTION:

Black J makes orders in Chambers in accordance with the Short Minutes of Order initialled by him and placed in the file.

The Court:

1. Orders that the Plaintiffs' costs and expenses of the proceeding be paid on an indemnity basis out of, or recouped from, the CFD Pool, the Futures Pool, the Margin FX Pool and the Online FX Pool on a pro-rata basis having regard to the Gross Liquidation Values as at 31 October 2011 of the CFD Accounts, the Futures Accounts, the Margin FX Accounts and the Online FX Accounts respectively.
2. Directs that the Liquidators would be justified in paying (or recouping) their remuneration, costs and expenses in respect of the Administration or Liquidation of MFGA relating to obtaining, or attempting to obtain, Recoveries from the Client Pool(s) into which the Recovery has been paid or (if obtained) would be paid.
3. Directs that to the extent that the Liquidators' remuneration, costs and expenses in respect of the



Administration or Liquidation of MFGA relates to obtaining, or attempting to obtain, Recoveries that have been paid or (if obtained) would be paid, into more than one Client Pool and/or the general funds of MFGA, the Liquidators would be justified in paying (or recouping) such remuneration, costs and expenses from the relevant Client Pool(s) and/or the general funds of MFGA in the same proportion as the proportion in which such Recoveries have been paid, or (if obtained) would be paid, into the Client Pool(s) and/or general funds.

4. Directs that to the extent that the Liquidators' remuneration, costs and expenses in respect of the Administration or Liquidation of MFGA relates, in part, to obtaining or attempting to obtain Recoveries, the Liquidators would be justified in:

(a) making a fair and reasonable estimate of the portion of the remuneration, costs and expenses that relate to obtaining or attempting to retain Recoveries and paying (or recouping) such amount in accordance with paragraphs 2 and 3 above; or

(b) (if the Liquidators are not able to make a fair and reasonable estimate of the kind referred to in order 4(a) above) paying (or recouping) their the remuneration, costs and expenses equally from:

(i) the relevant Client Pool(s) into which Recoveries have been paid or (if obtained) would be paid (and otherwise in accordance with paragraphs [2] and [3] above); and

(ii) the general funds of MFGA.

5. Orders that the legal expenses reasonably incurred by the Fifth Defendant in acting as appointed in accordance with order 1(a) made on 2 April 2012 in the proceeding:

(a) be paid out of, or recouped from, the Client Segregated Accounts and Recoveries (to the extent they have been received) on a pro-rata basis having regard to the balance of the Client Segregated Accounts and the quantum of the Recoveries (to the extent they have been received) on the date of the payment or the date of recoupment (as appropriate);

(b) on an indemnity basis as agreed or assessed.

6. Orders that the legal expenses reasonably incurred by the Eighth Defendant in the proceeding:

(a) be paid out of, or recouped from, the Client Segregated Accounts and Recoveries (to the extent they have been received) on a pro-rata basis having regard to the balance of the Client Segregated Accounts and the quantum of the Recoveries (to the extent they have been received) on the date of the payment or the date of recoupment (as appropriate);

(b) on an indemnity basis as agreed or assessed.

7. Orders that, when calculating the amounts to be paid or recouped from the Client Segregated Accounts and Recoveries for the purposes of orders 5 and 6 above and the Representative Cost Orders, the Liquidators are to:

(a) determine the balances of the Client Segregated Accounts and the quantum of Recoveries as if:

(i) no distributions had been paid from the Client Segregated Accounts or Recoveries; and

(ii) no interest had accrued on the Client Segregated Accounts or Recoveries; and

(b) include the balances of the Standard Chartered Bank CSAs in the calculation as if the exclusion of those accounts in the Representative Cost Orders did not apply.

8. Orders the Liquidators to make appropriate adjusting payments between the Client Segregated Accounts and Recoveries (including the Standard Chartered Bank CSAs) to give effect to the Representative Cost Orders as if order 7 above had applied at the time of any payments made pursuant to those orders.

9. The Liquidators have liberty to apply for further orders or directions in relation to the payment of their remuneration, costs and expenses if so advised.

Definitions

Administration means the administration of MFGA.

CFD Account means a CFD Account with MFGA established under a CFD Client Agreement or similar agreement with MFGA.

CFD Agreement means an agreement between MFGA and a person relating to the CFD Product Line.

CFD Client means a client of MFGA with a CFD Account.

CFD Pool has the meaning given in paragraph 19 of the orders made on 19 September 2012 in this proceeding.

Client Accounts mean:

(a) CFD Accounts;

(b) Futures Accounts;

(c) Margin FX Accounts;



(d) Online FX Accounts,
as appropriate.

Client Pools mean:

(a) the CFD Pool;

(b) the Futures Pool;

(c) the Margin FX Pool;

(d) the Online FX Pool,

as relevant.

Client Segregated Accounts means the bank accounts maintained by MFGA pursuant to Part 7.8 of the Act, being each of the 51 bank accounts of MFGA identified in Annexure "A" to the orders made on 19 September 2012 in this proceeding.

Futures Account means an account with MFGA established in connection with a Futures Agreement or similar agreement with MFGA.

Futures Agreement means an agreement between MFGA and a person relating to the Futures Product Line, including dealings in or clearing of futures and options contracts.

Futures Client means a client of MFGA with a Futures Account.

Futures Pool has the meaning given in paragraph 19 of the orders made on 19 September 2012 in this proceeding.

Futures Recoveries means the payments received, or to be received, by the Liquidators pursuant to arrangements with clearing houses and other MF Global group companies in respect of futures and options contracts executed or cleared on behalf of Futures Clients.

Gross Liquidation Value means the balance of each Client Account as if the MFGA Client were to close out all open positions at the current market price (less any proper transaction charges or adjustments), calculated by MFGA in Australian dollars on an aggregate basis across all of the MFGA Client's open positions in each Client Account.

Liquidation means the liquidation of MFGA.

Liquidators means the liquidators of MFGA.

Margin FX Account means a Margin FX Account with MFGA established under a Margin FX Agreement or similar agreement with MFGA.

Margin FX Agreement means an agreement between MFGA and a person relating to the Margin FX Product Line.

Margin FX Client means a client of MFGA with a Margin FX Account.

Margin FX Pool has the meaning given in paragraph 19 of the orders made on 19 September 2012 in this proceeding.

MFGA means MF Global Australia Limited (in liquidation).

MFGA Clients means all CFD Clients, Futures Clients, Margin FX Clients and Online FX Clients.

Online FX Account means an Online FX Account with MFGA established under an Online FX Client Agreement or similar agreement with MFGA.

Online FX Agreement means an agreement between MFGA and a person relating to the Online FX Product Line.

Online FX Client means a client of MFGA with an Online FX Account.

Online FX Pool has the meaning given in paragraph 19 of the orders made on 19 September 2012 in this proceeding.

OTC Recoveries means the payments received, or (subject to any available set off) to be received, by the Liquidators pursuant to agreements between MFGA and its hedge counterparties for the purpose of hedging MFGA's exposure to its CFD Clients, Margin FX Clients and Online FX Clients.

Product Lines means the following financial products into which the Second Plaintiff organised its business: CFDs, Futures, Margin FX and Online FX.

Recoveries means the Futures Recoveries and the OTC Recoveries.

Representative Costs Orders means orders 3, 4 and 5 made on 19 March 2012, orders 2, 3 and 4 made on 2 April 2012, orders 2, 3 and 4 made on 23 April 2012, order 3 made on 5 June 2012, orders 5 and 6 made on 20 June 2012 and order 3 made on 26 June 2012.

Standard Chartered Bank CSAs means the 11 Client Segregated Accounts identified in Part A(ii) of Annexure A to the orders made on 19 September 2012 in this proceeding.



SEAL AND SIGNATURE



Signature D Ray Choudhury

Capacity Chief Clerk
Date 12 December 2012

PARTY DETAILS

First Application under Corporation Law

Plaintiff, Applicant(s)

First Plaintiff

Christopher Robert Campbell, Vaughan Neil Strawbridge and David John Frank Lombe in their capacity as liquidators of MF Global Australia Limited (in liquidation)

First Applicant

mitchell taylor

Second Plaintiff

MF Global Australia Limited (In Liquidation)

Defendant(s)

First Defendant

RMF Management Services Pty Limited

Second Defendant

Graincorp Operations Limited

Third Defendant

The GFL Group Pty Limited

Fourth Defendant

Underdog Clothing Pty Ltd

Fifth Defendant

Practical Human Resource Solutions Pty Ltd

Sixth Defendant

Kimbalex Investments Pty Ltd

Seventh Defendant

George Weston Foods Limited

ABN 45008429632

ACN 008429632

Eighth Defendant

Deutsche Bank AG

Fourth Application under Corporation Law

Applicant(s)

First Applicant

Christopher Robert Campbell, Vaughan Neil Strawbridge and David John Frank Lombe in their capacity as liquidators of MF Global Australia Limited (in liquidation)

(s)